

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Anthony Posey,

Petitioner

v.

State of Nevada,

Respondent

Case No. 2:24-cv-01123-CDS-BNW

Order Dismissing and Closing Case

This court has received from the petitioner, a Nevada prisoner, a motion for appointment of counsel under 18 U.S.C. § 3006A. Title 18, Section 3006A authorizes federal courts to appoint counsel to represent indigent prisoners seeking relief from state custody. While petitioner is presumably seeking habeas relief under 28 U.S.C. § 2254, he did not include a petition for writ of habeas corpus with his motion, which is required to properly commence a habeas proceeding in this court. In addition, petitioner has not filed an application to proceed *in forma pauperis* or paid the filing fee. See 28 U.S.C. § 1915(a)(2) and Local Rules LSR 1-1, 1-2. Because this matter has not been properly commenced, it is dismissed.

The dismissal is without prejudice to bringing a new action under 28 U.S.C. § 2254 by submitting a petition for writ of habeas corpus on the form supplied by the court, along with either the \$5.00 filing fee or a completed application to proceed *in forma pauperis*. The latter must also be on the form provided by the court with both an inmate account statement for the past six months and a properly executed financial certificate.

IT IS THEREFORE ORDERED that this action is dismissed without prejudice. The Clerk is directed to close this case.

IT IS FURTHER ORDERED that a certificate of appealability is denied as jurists of reason would not find my dismissal of this improperly commenced action without prejudice to be debatable or incorrect.

1 IT IS FURTHER ORDERED that the Clerk shall send petitioner two copies each of an
2 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section
3 2254 habeas petition form, and one copy of the instructions for each form.

4 Dated: June 20, 2024

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7 Cristina D. Silva
8 United States District Judge
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